

**Foxborough Planning Board
Meeting Minutes
October 27, 2011
Town Hall**

Members Present: Kevin Weinfeld, William Grieder, Ron Bressé, Gordon Greene,
Alternate John Rhoads

Members Absent: Shannon McLaughlin

Also Present: Planner Sharon Wason

7:00 p.m. Discussion concerning the “Highlawn Farm” subdivision

Attorney Robert Shelmerdine was present. He stated that he has 2 things to report:

There's an appointment with National Grid scheduled for November 1st to open transformers to connect wires for street lights. Lights would be powered shortly thereafter.

Also, rock crushing will not occur, rather the rocks will be moved by Lopes and Tresca. He stated that Bob Hearn said that it would take place in the next several weeks. K.Weinfeld asked if trailer trucks would be used. R.Shelmerdine responded that it will be a coordinated effort so the equipment is present when necessary. K.Weinfeld asked that they begin with the rocks closest to the homes. R.Shelmerdine responded that they will try to use the end of the road closest to the Public Safety building. W.Grieder stated that the Board has started conversation with the Public Safety officials about closing off the end of the road, but can stop conversation if it would expedite the process. G.Greene asked what will happen when loam is not needed. R.Shelmerdine responded that he will find out about it. He stated that while Bob Hearn is at the site, construction materials will be moved off the side of the road. W.Grieder noted that people have started using the road as a dumping site.

G.Greene stated that a schedule for rock removal should be submitted. W.Grieder stated that he is concerned that removal will stop for several weeks in the winter.

R.Shelmerdine stated that they sent a letter to the homeowners asking for permission to access their property for the design of roof drainage, but have only received 2 letters back. He stated that engineer William Buckley is working on the design. Sharon Wason suggested that he contact them again, with the option that Mr. Buckley would only enter while they were home.

Kevin Morrissey, 23 Lawton Lane – stated that his house is still not complete; he stated that he wants to have the drainage work done, but punch list items need to be completed. He stated that he would like to see the street closed soon to protect the small children in the neighborhood; he would like the road blocked at the last house and not the end of the street. W.Grieder stated that he doesn't think that police would agree to block the road at the last house.

Jason McAuliffe, 20 Lawton Lane – stated that the unfinished houses are becoming animal shelters. S.Wason stated that it is an enforcement issue that the Building Commissioner is addressing.

R.Shelmerdine stated that he will submit an update letter for the next meeting. The Board agreed to continue the discussion on November 17, 2011.

7:30 p.m. Form A
93 Mill Street
David S. Law

Rich Leslie of Bay Colony Group, Inc. presented the plan. He stated that the lot is part of the Law farm and the house is being conveyed to one of Mr. Law's children. The parcel is on Mill Street. The new rear lot has no frontage on a road and is labeled "Not a buildable lot", but since both abutting lots with frontage are still owned by the family, W.Grieder felt that it would be able to be worked out in the future.

Motion by W.Grieder to approve the Form A plan since the Board found that the new lot has sufficient frontage and appropriate access on a public way. Seconded by G.Greene. Unanimous Affirmative Vote (5:0)

7:35 p.m. Form A
4 Stratton Lane
Kathleen Ciulla

R.Leslie presented the plan. He stated that Stratton Lane is not 100% a public way but have a certification from the Town Clerk that the entire road is maintained as a public way. W.Grieder stated concerned about iron rods being found in the rear portion of the lots. R.Leslie responded that the rods are installed with rebar which can be found with a metal detector.

S.Wason stated that the Board needs to determine that Stratton lane is an adequate way. Highway Superintendent Robert Swanson confirmed that Stratton Lane is maintained from South Street to the end of road

Motion by John Rhoads to determine that Stratton Lane is an adequate way. Seconded by W.Grieder. Unanimous Affirmative Vote (5:0)

Motion by J.Rhoads to approve the Form A plan since the Board found that the new lot has sufficient frontage and appropriate access on a public way. Seconded by W.Grieder. Unanimous Affirmative Vote (5:0)

7:40 p.m. Continued Public Hearing – Site Plan Review
Foxborough Compost Site
East Belcher Road

Ron Bressé recused himself from the matter.

S.Wason explained that she met with Andy Felix to discuss site plan requirements. A.Felix presented a new plan for the site.

G.Greene asked what activities will take place at the site. A.Felix stated that the compost site will be moved from Elm Street, taking what the Town is already doing and managing it on the site. In addition, he would like to relocate the log sorting operation from the Springbrook site. Currently, logs are sorted, processed, then moved to a sawmill, some are used for firewood and some for pulp. S.Wason stated that the intent is not to increase the number of landscapers that already use the compost site. The site will also receive Christmas tree disposal, tree limbs and debris from storms. She stated that the RFP allows other operations and Mr. Felix has opted to do the log sorting operation at the site. A.Felix stated that he expects 2 trips a day to drop off logs, 3 times per month a tractor trailer truck removes the sorted logs. He explained circulation on the site: residents and contractors on the left side, Tree Tech trucks would be on the right side in the portion designated for tree sorting. He also marked a location for a future expansion of the tree sorting operation. He stated that the proposed expansion area is in the wetland area. S.Wason stated that the area is not needed right away, but they will present the plan to the Conservation Commission. She stated that the site is keeping away from area where the Wetlands Protection Act may apply. R.Swanson stated that DEP has approved the location and site was chosen in place of originally proposed area in consultation with the Conservation Commission. S.Wason stated that they will return to the Board for a modification in order to expand the operation. She stated that the Police and Fire chiefs want emergency signage.

S.Wason stated that the site will be actively managed with an employee on site during operating hours. She stated that the Board needs to determine that the existing tree material is adequate vegetative buffer for this use. K.Weinfeld asked about toilet facilities. S.Wason stated that they will file a maintenance plan from Handy House with the Board of Health. S.Wason stated that the Police chief wants circulation signage, and a “no left-turn” sign at the exit point. K.Weinfeld asked about the condition of the roadway. A.Felix responded that they have to fix the grade. R.Swanson stated that there are some erosion issues, will have to crown the road to improve conditions. J.Rhoads asked about liability. S.Wason responded that liability insurance is required and it has been posted. She stated that A.Felix will purchase the foam necessary which will be stored at the Fire Department. J.Rhoads stated that they should have a spill kit onsite. A.Felix agreed to store a spill kit onsite.

Springbrook site:

A.Felix stated that having this site will have a positive effect on the Springbrook site. He stated that some of the larger equipment will be moved which will create a lot of space. He stated that the buffer that was encroached upon will re-vegetated. He stated that he has leased space in Plainville and a closed site in Marshfield to thin out the Foxborough site. J.Rhoads asked him to consider a satellite location for parking, or ask neighboring businesses for parking spaces. A.Felix stated that he could do that, adding that the next door neighbor has a lot of space and could be amenable. W.Grieder asked if wood chip sales are allowed at the Springbrook site. A.Felix responded that they have storage of materials but not sale activity. W.Grieder asked what will happen if improvements are not done in 6 months. A.Felix stated that he will be in compliance.

G.Greene expressed his concern about tying the 2 sites together. K.Weinfeld explained that the 6 months are running concurrent; the 6 months for the compost site is to ensure that operation runs correctly.

There were no comments from the public.

Motion by G.Greene to close the public hearing. Seconded by J.Rhoads. Unanimous Affirmative Vote (4:0)

Motion by J.Rhoads to approve with the following conditions:

1. The Applicant shall pay the required inspection fee prior to any site work occurring on the property or the issuance of a Building Permit.
2. All permits required by the Building Commissioner for the modular office building shall be obtained.
3. A gravel or reclaim access road shall be constructed before operations commence on site. The Applicant shall be responsible for maintaining the access road for the duration of the contract with the Town.
4. The Applicant shall install and maintain a temporary sanitary facility/Porta-Potty and file a copy of the maintenance contract with the Foxborough Board of Health before a Certificate of Occupancy is issued for the modular office building.
5. The Applicant shall install proper signage within the Municipal Compost Site and access road for safe and proper traffic flow. The Applicant shall install an entrance sign to the Municipal Compost Site showing operating hours. The Applicant shall install signage informing residents of allowable materials and proper composting and signage detailing emergency procedures and contact information, including, but not limited to, the Operator (24-hour access number), the Foxborough Police Department, the Foxborough Fire Department, and Foxborough Board of Health.
6. The Applicant shall maintain the existing entrance gate and replace it as needed. The entrance gate shall be in acceptable and good condition at all times. The entrance gate shall be equipped with a Knox box or other mechanism to allow 24-hour access to site by Town of Foxborough emergency personnel.
7. Subsurface soil analysis indicates the presence of gravel deposits on the site, which could be screened for gravel or clean fill. If gravel on-site is screened, it shall only be used for preparation of the site. Under no conditions shall the Applicant remove soil, gravel, or related material from the site without appropriate permits from the Town.
8. The Applicant shall construct a composting pad as shown on the plans to be approved by the Town prior to the commencement of any operations on site.
9. Although the Request for Proposals allows the Applicant to use the site for disposal of Yard Waste and trees from his business, this shall not allowed until the Planning Board determines a sufficient area and appropriate access have been provided for activities in addition to the Municipal Compost activity per the request of the Applicant.
10. Working hours shall not exceed 7 a.m. to 7 p.m. Monday through Saturday per Town of Foxborough General By-Laws.
11. The fencing and vegetative screening along East Belcher Road shall be maintained. Failure to do so will be considered a violation of this approval. In the event of a maintenance failure, the applicant shall be provided notice and the reasonable opportunity to cure any such deficiency; the applicant's failure to cure will be considered a violation of this approval.
12. Truck traffic shall be directed to utilize East Belcher from the north only. The Applicant's trucks, the commercial landscapers permitted by the Applicant to utilize the facility, and other large vehicles shall be directed to utilize East Belcher Street from Cocasset Street.
13. The Applicant shall install "STOP" near the gate at East Belcher Road. The Applicant shall install a "RIGHT TURN ONLY" and an international graphic sign signifying "no left turn" on the westerly side of East Belcher Road immediately across from the gate. If determined necessary, the Applicant shall install other standard traffic control signs as directed by the Planning Board or other Town official.
14. All signs installed on site shall comply with section 15B of the Foxborough General By-Laws.

15. The Applicant shall have on site at least one emergency spill containment kit (or more if required in writing by the Fire Chief) and provide training to yard personnel. The Applicant shall install a spill response sign with emergency contact information and telephone numbers at a location specified by the Fire Chief.
 16. The Applicant shall obtain sufficient quantity (as specified by the Town of Foxborough Fire Department) of class A foam to be stored at the Fire Station or other location specified by the Fire Department prior to the issuance of a certificate of occupancy for the modular office building.
 17. Should the Planning Board have concerns with the level of lighting, intensity of the lights, or lighting spillage onto abutting properties or the street, the Board reserves the right to require the applicant to adjust the level of lighting, the type of lighting fixtures or the location of individual lights.
 18. The Applicant shall cause a reproducible mylar plan, incorporating the notes and the details from the plan displayed at the Planning Board's Hearing and the conditions of this Site Plan Approval, to be produced for endorsing by the Board at the conclusion of the Appeal Period of this Permit.
 19. This site plan approval is only valid for the Municipal Compost activity and for a period not to exceed six months. The Applicant shall appear before the Board on or before May 1, 2012 to extend or amend this site plan approval.
 20. At the end of the term of the contract between the Applicant and the Town, the Applicant shall remove all equipment and property owned or provided by Operator from the Compost Site and restore the Compost Site to good and clean condition for operation by others, subject to inspection by the Board. The Applicant shall post a bond in the amount of \$50,000 to ensure the removal of equipment and property from the site.
 21. Any proposed change(s) from the approved plans deemed substantive by the Planning Board and/or the Building Commissioner or any future changes in the use or in the intensity of an existing use, shall be submitted for review to the Planning Board. The Board shall determine if there is a need for a public hearing and shall then act accordingly on the change(s). Approved revisions shall be illustrated on plans and submitted.
 22. This site plan approval will not relieve the applicant of the responsibility of obtaining other required approvals from local, state or federal agencies. Expansion of the Compost area beyond the area reviewed by the Conservation Commission in their determination of May 9, 2011 shall require the filing of a Notice of Intent with the Commission.
 23. This approval shall lapse if construction of the driveway and gravel pad is not commenced within six (6) months from the date of approval.
 24. This approval shall further terminate upon conclusion of the activities on site by the Applicant. Operation of a Municipal Compost facility by any party other than the Owner or Applicant shall require site plan review by the Planning Board.
- Seconded by G.Greene. Unanimous Affirmative Vote (4:0)

8:00 p.m. Continued Public Hearing – Zoning Articles

Motion by W.Grieder to waive the reading of the public hearing notice. Seconded by G.Greene. Unanimous Affirmative Vote (5:0)

Article 2

This zoning change would amend sections 3 and 7 of the Zoning By-Law by creating Renewable Energy Regulations for the construction and utility of "On-Site Wind Turbines" and "Utility-Scale Wind Turbines" in the Town of Foxborough.

Attorneys John Twohig and Peter Tamm of Goulston & Storrs represented The Kraft Group along with Dan Krantz. J.Twohig stated that they listened to some of the comments at the last hearing and would like to address the concerns. He stated that the concerns shared by the public included: shadow and flicker provision, safety & security, height should be limited and the desire to see what a turbine would look like on a stadium site. He stated that the articles have been informally discussed with the Board for the last few months. W.Grieder concurred that this is a town-wide effort.

J.Twohig presented a red-lined version with proposed revisions. Also included are concept and aerial photo illustrations

G.Greene stated that he is concerned about mentioning dwellings “in existence” under the “Noise” paragraph, stated that he would like to see a requirement for any area zoned residential. J.Twohig responded that it is difficult to regulate for prospective residential use. P.Tamm responded that the concern is because a location needs to be chosen for noise compliance. G.Greene suggested using property line. J.Twohig responded that property line would be agreeable.

W.Grieder stated that verbiage for flicker “where applicable” is concerning and asked if it should be similar to noise requirements. P.Tamm responded that flicker is not currently regulated, impact on residential. He stated that “where applicable” is for sites that don’t abut residential area. S.Wason pointed out that hotels are considered a residential use in the Town’s zoning by-laws. W.Grieder stated that a study should be required similar to “Noise”.

W.Grieder stated that turbines must have adjustable speeds to control noise. J.Twohig stated that the change will have an impact on the small scale turbines. P.Tamm suggested that the Board consider using “shall”. W.Grieder stated that blade throw should be studied. S.Wason stated that there’s a bill in the State Legislature that would limit how local zoning can regulate wind turbines. She stated that one version says that licenses would be issued by the State, another version says that Towns cannot restrict the use, similar to cell towers.

John Murtaugh, 7 Nottingham Way Walpole, Planning Board member – stated that propellers can come loose, turbines have not place abutting a residential zone. He stated that he would support the installation of solar arrays.

Richard Mazzocca, 7 Harrison Ave. Walpole, Planning Board member – stated that substantial changes have been presented tonight, requested that the hearing be continued so the changes can be reviewed properly.

Bill Hamilton, 45 Eldor Drive Walpole – stated that wetlands can be drained and built upon, requested that the Board keep to a boundary of a residential area. Asked what type of wind situation would require a wind turbine profitable. K.Weinfeld responded that the Board doesn’t have the information. W.Grieder responded that the Board looks at safety standards and if it fails then there are funds to remove if it’s not profitable or is abandoned.

Ed Forsberg, Walpole Planning Board member – stated that shadow/flicker impacts would affect an office building as well as residential. Stated that he is concerned about waiving the setback requirement.

Kathleen Fitzpatrick, 3 Shufelt Road Walpole – asked why this process is being done prior to knowing if this is feasible. K.Weinfeld stated that if there’s no bylaw, it wouldn’t be an allowed

use. He stated that the Board is encouraging the concept, but need to see how big, how far from residential; technology is improving and less wind is needed to generate power. He stated that the Town needs to consider the concept but need to weed out the potential negative. W.Grieder stated that this is the third entity to inquire about wind turbines, Town cannot do all the research and they are the first applicant who began to do the research. K.Fitzpatrick asked the Board to consider if they would want this near their home.

Richard Nottebart, 187 Gould Street Walpole – asked if the Stretch Code been adopted by the Town. S.Wason responded that she has sent a memo to the Board of Selectmen to request that the Town become a “Green Community”. R.Nottebart stated that this is premature for a public hearing. J.Twohig stated that the stadium houses the largest reuse water in the East Coast; all parking lots and common spaces are powered by solar panels. W.Grieder stated that the material has been discussed for a few months and the hearing was scheduled to get public input. R.Nottebart stated that the Board should be looking at density from the area, there are 1,100 homes abutting the parking lot.

J.Murtaugh asked if a location has been decided. J.Twohig responded that there’s a depression area in the South Plaza by the water tower were they could locate a turbine. He clarified that it is an example of the location currently being considered but not presenting a project.

Joan Sozio, 25 Eastman Ave. Foxborough, former Water & Sewer Commissioner – stated that she is concerned that there are not many people from Foxborough at the hearing. Asked why the R-40 zoning district is included, since it would confuse the public. G.Greene responded that there is a potential for residents to have the ability to install small scale turbines.

Article 3

This zoning change would amend sections 3, 4, and 9 of the Zoning By-Law by making changes to the Water Resources Protection District and changes that apply predominately in the EDAOD zoning district of the Town of Foxborough, including enhancements to transportation facilities.

S.Wason stated that there’s a conflict with CMR regulations. She stated that item 5 “privately-owned” treatment works clashes with 314 CMR.

S.Wason stated that she wanted to discuss Item 1. K.Weinfeld stated that it is concerning that a private law firm would perform a study without the backup from the MBTA. S.Wason stated that a presentation of the study was done yesterday, a number of people from Foxborough and Walpole were present along with Representative Dan Winslow. The disbelief that a law firm would do a study on its own is shared by many. She added that the MBTA is \$15 billions in debt and questioned the pilot program being funded with the debt. There are many issues, including the layover, grade crossings, signalization upgrades, train speeds, and numerous street crossings in the center of Foxborough. The study was done in a vacuum without consulting the towns of Foxborough nor Walpole. G.Greene stated that the study was done without contact with the communities involved. W.Grieder stated that the study was at first presented as an official MBTA study. At the presentation they acknowledged that didn’t include the end community; identified areas that would need upgrades to extend the Fairmont service to Foxborough; presented as a need to readjust ridership predicated on free parking but there’s no notation that the MBTA doesn’t have any parking; O&M study, construction study aren’t included in the cost. The study comprised of MBTA service and event operations from Boston and Providence; event service from Worcester through Sherborn & Millis. S.Wason stated that everyone can agree that in concept public transportation is a good idea, but it needs to be done the right way. She stated that a change proposed in this article that would clarify that commuter rail, bus stations, et al are

allowed by Special Permit including accessory parking and other similar structures and improvements. J.Twohig stated that D.Krantz was contacted regarding use of parking. He stated that they support the idea of public transport, the study was interesting but a lot more work would need to be done.

R.Nottebart asked if the Kraft Group funded the study. J.Twohig responded that he isn't aware of any involvement by his client,

Deborah Burke, 7 Wisteria Lane Walpole – asked if layover facilities are allowed. K.Weinfeld responded that locally, they are not allowed today, but Federal railroad law could allow them. D.Burke stated that Mr. Myrick's option mentioned layovers. W.Grieder responded that the 2010 study and shows land that the MBTZ owns. D.Burke stated that the proposal shows that many trains would not stop at Back Bay, which is a popular stop.

Greg Mahoney, 12 Concord Drive Walpole – stated that he drives to Canton Junction and the ride is 20 minutes shorter, have not had a problem finding a parking space there. He stated that, from a practical point, the amount of time the train would take to arrive in Boston doesn't make sense.

Foxborough Selectman Lorraine Brue asked about Item #3. S.Wason responded that it was added by request from Building Commissioner Casbarra. J.Twohig added that Mr. Casbarra is concerned about enforcing percentage of usage, storage yards.

Article 4

This zoning change would amend Sections 6, 9, and 11 of the Zoning-By-Law by allowing the following uses in the EDAOD: Facilities for the production and Distribution of Renewable Energy and/or Cogeneration Energy; Gas Service Station(s) and/or Car Wash(es) in connection with retail/mercantile use(s); High Tech Office Facilities; Multi-family dwellings, subject to the regulations applicable within the EDAOD under these By-Laws; Commuter rail, bus and/or other transportation stations/facilities and related or accessory parking and other similar structures and improvements; and Spas; by creating a provision to deal with lots in two zoning districts; and by increasing the heights of buildings within the EDAOD.

G.Greene stated that parking needs for high-tech offices should be discussed.

J.Twohig stated that they heard people's concerns about building height. He proposed limiting the zone for buildings with expanded height. He presented a figure with existing building restrictions and suggested an area to allow higher buildings, suggested moving the limitation from Route 1 to move buildings further away from the residential area in Walpole.

J.Twohig stated that they have filed for MEPA approval to construct in the parcel, they think that this area has been master planned, and it is absolutely consistent with the designated growth area.

J.Murtaugh stated that high-tech office could include many uses. J.Twohig responded that it would be primarily limited office uses. J.Murtaugh asked if a lab would be included. P.Tamm responded that a lab could be included but there's a provision that doesn't allow hazardous uses. He added that the issue is parking requirements.

R.Mazocca stated that Biotech could be a hazardous use. He stated that when this district was created, zoning was set a certain way for setbacks and building heights and this is a significant change. He stated that buildings would change the entire atmosphere.

B.Hamilton stated that Level 4 Biotech is hazardous and Level 3 can use Level 4 materials.

J. Sozio stated that Route 1 got a lot of changes when the stadium was approved. She stated that traffic studies were done as well as impact on water resources. She stated that she is skeptical about what will be approved. She stated that all groundwater wells in the Town have been developed.

K.Fitzpatrick – stated that Summer Street is a cut off between Route 1 and Route 1A and people speed down the street.

G.Mahoney – asked if a casino could be considered an accessory use. K.Weinfeld responded that the casino would be the primary use and the hotel would be the accessory use. W.Griender stated that the Board’s position is to have a ballot question for the citizen’s to determine if they would approve a casino.

W.Griender stated that split lots and multi-family dwellings within the EDAOD would face opposition from members of this Board and the Advisory Committee.

There were no more comments from the public.

Motion by W.Griender to continue the public hearing to December 3, 2011 at 8:00 p.m. at Town Hall. Seconded by G.Greene. Unanimous Affirmative Vote (5:0)

**10:45 p.m. Request for release of performance guarantee
Construction Planners
67 Green Street**

K.Weinfeld read letter from Jack Gamache. Mr. Gamache stated that all site work has been completed at 67 Green Street and requested the release of all funds being held as performance guarantee. Site inspector Mullaney submitted an inspection report verifying that all site work has been completed.

Motion by G.Greene to release all funds being held as performance guarantee to ensure the construction of 67 Green Street. Seconded by R.Bressé. Unanimous Affirmative Vote (5:0)

11:00 p.m. Review of old/new business

Planner’s Report

S.Wason stated that she represented the Town at a 495/MetroWest Region Development meeting. She gave an update on the PWED project. She stated that there were 16 respondents to the North Street survey.

She stated that she would like to do an inventory on Downtown buildings and has the opportunity to hire an intern from MIT to do the research. She requested permission from the Board to hire an intern this winter to do an inventory of the Downtown buildings to be used as a basis for the Downtown Plan.

Motion by W.Griender to approve the hiring of an intern. Seconded by K.Weinfeld. Unanimous Affirmative Vote (5:0)

Active Subdivisions

Autumn Valley Estates

R.Bressé stated that he wanted to have a chance to discuss the subdivision since there was a lot of progress made in the completion of the outstanding items list. After a brief discussion, the Board felt that any progress was not enough and that the Board's vote should not change.

Meeting Minutes

The Board reviewed the minutes of August 25, 2011. There were no changes to the minutes.

Motion by W.Grieder to approve the minutes of August 25, 2011 as submitted. Seconded by G.Greene. Unanimous Affirmative Vote (5:0)

11:30 p.m. Meeting adjourned.

Approved by: Kevin Weinfeld, Chairman

Date: December 8, 2011